United Nations A/C.3/62/L.40

General Assembly

Distr.: Limited
2 November 2007

Original: English

Sixty-second session
Third Committee
Agenda item 70 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Egypt, Guatemala, Honduras, Mexico, Peru and Philippines: draft resolution

Protection of migrants

The General Assembly,

Recalling all its previous resolutions on the protection of migrants, the most recent of which is resolution 61/165 of 19 December 2006, and recalling also Commission on Human Rights resolution 2005/47 of 19 April 2005,[1]

Reaffirming the Universal Declaration of Human Rights,[2] which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Reaffirming also that everyone has the right to freedom of movement and residence within the borders of each State, and to leave any country, including his own, and return to his country,

Recalling the International Covenant on Civil and Political Rights[3] and the International Covenant on Economic, Social and Cultural Rights,[3] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[4] the Convention on the Elimination of All Forms of Discrimination against Women,[5] the Convention on the Rights of the Child,[6] the International Convention on the

[1] See *Official Records of the Economic and Social Council, 2005, Supplement No. 3* and corrigendum (E/2005/23 and Corr.1), chap. II, sect. A.
[2] Resolution 217 A (III).
[3] See resolution 2200 A (XXI), annex.
[4] United Nations, *Treaty Series*, vol. 1465, No. 24841.
[5] Ibid., vol. 1249, No. 20378.
[6] Ibid., vol. 1577, No. 27531.

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Elimination of All Forms of Racial Discrimination,[7] the Vienna Convention on Consular Relations of 1963[8] and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[9]

Recalling also the provisions concerning migrants contained in the outcomes of all major United Nations conferences and summits,

Welcoming the establishment of the Human Rights Council, which is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner,

Welcoming also the convening of the High-level Dialogue on International Migration and Development, held in New York on 14 and 15 September 2006 for the purpose of discussing the multidimensional aspects of international migration and development, which recognized the relationship between international migration, development and human rights, as well as the convening of the Global Forum on Migration and Development, held in Brussels from 9 to 11 July 2007,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as the full respect for the human rights and fundamental freedoms of migrants,

Noting that many migrant women are employed in the informal economy and in less skilled work compared with that of men, which puts those women at greater risk of abuse and exploitation,

Concerned about the large and growing number of migrants, especially women and children, who place themselves in a vulnerable situation by attempting to cross international borders without the required travel documents, and underlining the obligation of States to respect the human rights of those migrants,

Underlining the importance for States, in cooperation with non-governmental organizations, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone to make informed decisions and to prevent them from utilizing dangerous means to cross international borders,

Emphasizing the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation and dialogue in this regard, as appropriate, and the need to protect the human rights of migrants, particularly at a time in which migration flows have increased in the globalized economy and take place in a context of new security concerns,

1. *Calls upon* States to effectively promote and protect the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, and to address international migration through international, regional or bilateral cooperation and dialogue and through a comprehensive and balanced approach, recognizing the roles and responsibilities of

[7] Ibid., vol. 660, No. 9464.
[8] Ibid., vol. 596, No. 8638.
[9] Ibid., vol. 2220, No. 39481.

countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability;

2. *Also calls upon* States to ensure that their laws and policies including in the areas of combating transnational crime such as terrorism and human trafficking, do no impinge negatively on the human rights of migrants;

3. *Welcomes* the report of the Special Rapporteur of the Human Rights Council on the human rights of migrants,[10] as well as of the report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its fifth and sixth sessions;[11]

4. *Calls upon* States that have not done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[9] as a matter of priority, and requests the Secretary-General to continue his efforts to raise awareness and promote the Convention;

5. *Urges* States parties to the United Nations Convention against Transnational Organized Crime[12] and supplementing protocols thereto, namely, the Protocol against the Smuggling of Migrants by Land, Sea and Air[13] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,[14] to implement them fully, and calls upon States that have not done so to consider ratifying them as a matter of priority;

6. *Requests* all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, destination and transit, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants;

7. *Expresses concern* about legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

8. *Requests* States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of

[10] A/HRC/4/24.

[11] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 48* (A/62/48).

[12] Resolution 55/25, annex I.

[13] Ibid., annex III.

[14] Ibid., annex II.

the human rights of migrants, inter alia, arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

9. *Urges* States to ensure that repatriation mechanisms allow for the identification and special protection of vulnerable persons such as refugees, victims of trafficking or unaccompanied children and are in accordance with the principles of best interest of the child and family reunification;

10. *Reaffirms* the obligations contained in article 36 of the Vienna Convention on Consular Relations,[8] according to which States parties in whose territory a detention of a foreign national occurs shall inform the foreign national without delay of his/her right to communicate with his/her consular post and shall, should the detained foreign national so request, inform the consular post without delay of the detention, and emphasizes in this regard the jurisprudence of universal and regional jurisdictional courts on the obligation to comply with article 36;

11. *Strongly condemns* the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply the existing laws when xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts, including those regarding access to employment, professional training, housing, education and health, social and public services;

12. *Requests* all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

13. *Encourages* all States to remove obstacles that may prevent the safe, unrestricted and expeditious transfer of remittances of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

14. *Welcomes* immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious, tolerant and respectful environment, and encourages States to consider the possibility of adopting these types of programmes;

15. *Requests* Member States, the United Nations system, international organizations, civil society and all relevant stakeholders, especially the United Nations High Commissioner for Human Rights and the Special Rapporteur on the human rights of migrants, to ensure that the perspective of the human rights of migrants is included among the priority issues in the ongoing discussions on international migration and development within the United Nations system bearing in mind the discussions of the High-level Dialogue on International Migration and Development held in New York on 14 and 15 September 2006, pursuant to General Assembly resolution 58/208 of 23 December 2003;

16. *Requests* the Secretary-General to provide the necessary resources for the Committee on Migrant Workers to meet for two weeks in spring and for one week in autumn in order to fulfil effectively its functions pertaining to examination of reports from States parties;

17. *Encourages* the Special Rapporteur on the human rights of migrants to study the issue of the demand for the work and contribution of migrants, in particular to the economies of recipient countries, and in this regard to explore opportunities through which the issue can promote the respect for and protection of all migrants;

18. *Requests* the Secretary-General to report on the implementation of the present resolution at its sixty-third session and decides to examine the question further under the item entitled "Promotion and protection of human rights".